

Code of
Fairfax County

PEDDLERS,
SOLICITORS AND
CANVASSERS

With amendments through July 1, 2002

CHAPTER 31 Peddlers, Solicitors and Canvassers.¹
Article 1. In General.

Section 31-1-1. Definitions; exceptions.

- (a) For the purposes of this Chapter, unless a different meaning is required by the context, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Canvasser means any person who engages in opinion-sampling, poll-taking or other similar activity from house to house, door to door, street to street, or from place to place, in person, for compensation, or who is directed or supervised by a person who is compensated.

Director means the Director of the Department of Consumer Affairs of Fairfax County or his agent or designee.

Commission means the Consumer Protection Commission of Fairfax County, Virginia.

County means the County of Fairfax, Virginia.

Itinerant merchant means any person who engages in, does, or transacts any temporary or transient business and who, for the purpose of carrying on such business, occupies any location for a period of less than one (1) year.

Peddle means to operate from a temporary stand, display or similar facility or to travel from house to house, door to door, street to street or from place to place, carrying, conveying, or transporting goods, wares, or merchandise for the purpose of offering and exposing the same for sale, whether or not responding to appointments by telephone, telegraph, correspondence or other means of communication; provided, that to solicit orders and as a separate transaction, make deliveries to purchasers as a part of the scheme or design to evade the provisions of this Section shall be deemed peddling.

Peddler means a person who peddles for himself or any other person.

Person means any individual, organization, trust, foundation, association, partnership, corporation, society or other group or combination acting as a unit.

Promoter means a person who sponsors an arts and crafts show where more than four (4) individual peddlers, itinerant merchants or solicitors offer arts and crafts goods for sale to the general public.

Sale, sell and sold mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

Solicit and solicitation mean to operate from a temporary stand, display or similar facility, or to travel from house to house, door to door, street to street, or from place to place taking or attempting to take orders for sale of goods, wares or merchandise, subscriptions, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not responding to appointments prearranged by telephone, telegraph, correspondence or other means of communication. To hire, lease, use or occupy any building or structure, lodging house, apartment, shop or any other place within the County for the sole purpose of exhibiting samples and taking orders for future delivery.

¹ Editor's note--Chapter 31 has been extensively revised by Ord. No. 22-84-31 adopted July 30, 1984. In some cases, completely new provisions have been added. These provisions will be self-evident as they will carry reference only to Ord. No. 22-84-31 in their history notes. In other cases, existing provisions have been essentially retained but have been renumbered. In those cases, the complete legislative history has been retained, with an accompanying note giving the former section number.

Solicitor means a person who solicits for himself or any other person.

- (b) Exceptions. The terms "*canvasser*," "*peddler*," or "*solicitor*" as used in this Chapter do not include:
- (1) Persons who as wholesalers or distributors solicit orders from or sell to retail dealers in the County or who sell goods or services to be used in manufacturing or other commercial purposes;
 - (2) Persons selling, offering for sale, or soliciting orders for fresh farm food products, including but not limited to, vegetables and dairy products;
 - (3) Persons selling, offering for sale, or soliciting orders for newspapers;
 - (4) Persons licensed by the Commonwealth of Virginia pursuant to Title 38.2 (Insurance) of the Code of Virginia or pursuant to Chapter 21 of Title 54.1 (Professions and Occupations) of the Code of Virginia; or
 - (5) Persons licensed by the County pursuant to Chapter 34 (Charitable Solicitations) of the County Code or exempt from such licensing for pertinent reasons set forth in that Chapter. (2-18-70; 5-22-72; 1961 Code, § 18-1; 16-76-31; 13-77-31; 22-84-31; 10-93-31, § 1.)

Section 31-1-2. Prohibited acts.

- (a) It shall be unlawful for any canvasser, peddler, or solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of canvassing, peddling or soliciting at any residence, dwelling or apartment at which a sign bearing the words "No Peddlers or Solicitors" or words of similar import indicating that such persons are not wanted on said premises, is painted, affixed or otherwise exposed to public view.
- (b) It shall be unlawful for any canvasser, peddler, or solicitor, to canvass, peddle, or solicit except between the hours of 9:00 A.M. and 8:00 P.M.
- (c) It shall be unlawful for any canvasser, peddler, or solicitor to fail to disclose to the prospective buyer, upon request, his name and the name of the company, product or organization he represents, and if requested so to do, to leave the premises immediately.
- (d) It shall be unlawful for any canvasser, peddler, or solicitor to make any assertion, representation or statement of fact which misrepresents the purpose of his call, or use any plan, scheme, or ruse which misrepresents such purpose.
- (e) It shall be unlawful for any peddler or solicitor to fail to provide, at the request of the purchaser, a written receipt, which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment.
- (f) It shall be unlawful for any person licensed pursuant to this Chapter to use or exploit the fact of being licensed so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by this County; provided, however, that the use of the following statement shall not be deemed a prohibited exploitation: "Licensed by the Director of the Fairfax County Department of Consumer Affairs as required by law. Licensing does not imply endorsement by Fairfax County."
- (g) It shall be unlawful for any canvasser, peddler, or solicitor to give false or incorrect information to the Director in filing statements or reports required by this Chapter.
- (h) It shall be unlawful for any person who is licensed as a promoter of an arts and crafts show pursuant to this Chapter to fail to submit a roster of all peddlers, itinerant merchants, or solicitors who are expected to participate in any arts and crafts show being sponsored by that person to the Director no less than three (3) days prior to conducting any such show. That roster also shall indicate the time and place of the expected show.
- (i) It shall be unlawful for any person who is licensed as a promoter of an arts and crafts show pursuant to this Chapter to fail to keep at the site of an arts and crafts show a current roster of all peddlers, itinerant merchants, or solicitors participating in any ongoing arts and crafts show being sponsored by that person, and it shall be unlawful to fail to show such roster upon request to the Director or to any law enforcement official.

- (j) It shall be unlawful for any such promoter to fail to file with the Director a complete roster of all such participants within seven (7) days after the completion of any arts and crafts show sponsored by the promoter within the County. All such rosters shall record the time and location of the event, and such rosters shall identify the full name, address, telephone number and nature of business for each participant. (16-76-31; 43-81-31; 22-84-31; 10-93-31, § 1.)

Section 31-1-3. Information filed to become public records.²

Reports, and all other documents and information required to be filed under this Chapter shall become public records to be kept in the office of the Director and shall be open to the general public for inspection at such time and under such conditions as the Director may prescribe. A charge not exceeding One Dollar (\$1.00) per page may be made for any copy of such documents as may be furnished any person by the Director. (16-76-31; 43-81-31; 22-84-31.)

Section 31-1-4. Penalties.³

Any person who violates or causes to be violated any provision of this Chapter shall be guilty of a Class 2 misdemeanor. (37-74-18; 1961 Code, §§ 18-1.1, 18-1.2; 16-76-31; 22-84-31; 10-93-31, § 1.)

ARTICLE 2. Licenses.

Section 31-2-1. Licenses required; surrender of revoked or suspended licenses.

It shall be unlawful for any canvasser, peddler, or solicitor to engage in such business or act within the meaning and application of this Chapter within the County without first obtaining a license therefor in compliance with the provisions of this Article. However, a person may obtain a promoter's license in accordance with the provisions set forth in Section 31-2-4 to sponsor an arts and crafts show where peddlers, itinerant merchants, or solicitors may engage in business without obtaining separate licenses for each peddler, itinerant merchant, or solicitor who participates in that show. Any license issued pursuant to this Chapter shall remain the property of Fairfax County, Virginia, and upon written notification from the Director, any person who has been issued a license which has been suspended or revoked shall surrender and return that license to the Department. (2-18-70; 1961 Code, § 18-3; 16-73-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-2. Copy of license to be provided.⁴

It shall be unlawful for any person required to be licensed by this Chapter to refuse to exhibit to a prospective purchaser, to the Director or to a police officer, that license after being requested to do so. It shall be unlawful for any person who has been licensed as a promoter of arts and craft shows to refuse to exhibit to an arts and craft show participant, the Director or a police officer that license after being requested to do so. (2-18-70; 1961 Code, § 18-10; 16-76-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-3. Identification on vehicles; business sign.

- (a) Every vehicle used by a peddler or solicitor in the conduct of his business shall have conspicuously displayed thereon, in letters and numerals not less than three (3) inches high, the name and business address of the person, firm or corporation using such vehicle.

² Note--Formerly, § 31-1-4.

³ Note--Formerly, § 31-1-7.

⁴ Note--Formerly, § 31-1-4.

- (b) Every peddler or solicitor conducting business from a temporary stand shall have conspicuously displayed a sign identifying the business by name and address, with letters and numerals not less than three (3) inches high and with a total dimension not greater than twelve (12) square feet. (22-84-31.)

Section 31-2-4. Application for license.⁵

- (a) Except as otherwise provided in Paragraph (b) of this Section, all applications for licenses and renewals thereof required by this Chapter shall be made in person, on forms provided by the Director. Each applicant, if an individual, shall be required to be fingerprinted and photographed by the County. The applicant shall provide the following information, if applicable, under oath:
 - (1) Pertinent personal data requested, including name, business address and home address. The applicant must corroborate this information by producing some form of identification, with photograph, issued by a government agency and at least one (1) other means of identification.
 - (2) Description of applicant's physical condition.
 - (3) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (4) A brief description of the nature of the business and the goods to be sold or services to be performed.
 - (5) The applicant's criminal record.
 - (6) The approximate length of time the applicant intends to do business in the County.
 - (7) If a vehicle is to be used, a description of the same, together with the registration and license number, or other means of identification.
 - (8) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced; where such goods or products are located at the time such application is filed; and the proposed method of delivery.
 - (9) The names of at least two (2) persons who will certify as to the applicant's good character and business responsibility, or in lieu of the names of references, such other available evidence as will enable the Director to evaluate properly such character and responsibility.
 - (10) Any other permits or licenses required under other applicable County or state laws or regulations to enable the applicant to peddle or solicit in the manner or location indicated [in] his or her application, specifically including, for example, any special permits or non-residential use permits required by the Zoning Ordinance (Chapter 112 of the County Code).
- (b) In addition to the requirements and the information required by Paragraph (a) of this Section, on application for a promoter's license, the applicant shall file a statement with the Director agreeing to provide the information specified in Section 31-1-2 and to maintain records of all such shows for a period of at least two (2) years showing the day, time, and location and the participants, identified as specified in Section 31-1-2, for each and every arts and craft show sponsored by that person. (2-18-70; 1961 Code, § 18-4; 16-76-31; 43-81-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-5. Fee.⁶

Every applicant for a license pursuant to this Chapter shall first pay the Director the sum of Twenty Dollars (\$20.00) to cover processing and the costs of administration prescribed by this Article. This fee shall not be refunded to the applicant in the event that a license is refused or revoked. (2-18-70; 1961 Code, § 18-5; 16-76-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-6. Bond required.⁷ Repealed by 10-93-31, § 2.

⁵ Note--Formerly, § 31-2-5.

⁶ Note--Formerly, § 31-2-6.

⁷ Note--Formerly, § 31-2-7.

Section 31-2-7. Investigation of applicant.⁸

The Director shall have an investigation made of the applicant. A confidential record of the investigation shall be kept on file by the Director and be made available to the Commission if necessary to the Commission's consideration of an appeal of a denial of a license or renewal thereof. Such record shall also be made available to the applicant upon his request. (2-18-70; 1961 Code, § 18-6; 16-76-31; 43-81-31; 22-84-31.)

Section 31-2-8. Issuance and denial.⁹

- (a) Except for any action taken pursuant to Paragraphs (b) and (c) of this Section, the Director shall issue the applicant a license within sixty (60) days following the date of the filing of a license application.
- (b) The Director may, after investigation and finding that the health, safety and welfare of the public so demand, refuse to issue a license to an applicant for reasons including, but not limited to, the following:
 - (1) Conviction of any felony within the five (5) years immediately preceding the date of filing of the application.
 - (2) Conviction of any crime within the five (5) years immediately preceding the date of filing of the application, involving a crime against a person or involving moral turpitude, including, but not limited to, violation of any law regulating sexual conduct or the production, sale, possession or use of narcotics.
 - (3) Fraud, misrepresentation or intentional false statement of material or relevant facts contained in the application or previous denial or revocation of any license as provided by Section 31-2-15.
 - (4) The applicant does not have other necessary permits or licenses required to peddle or solicit in the manner or location indicated in his or her application or is prohibited under other applicable laws or regulations from conducting his or her business in such a manner or location.
- (c) An applicant for a license may be issued a temporary permit after filing the application based upon a preliminary investigation by the Director, which permit shall remain in effect until the issuance, or denial, of a license as herein provided.
- (d) In the event the Director denies a license, he shall notify the applicant, in writing, within ten (10) days of the denial of the license. Such notification shall be sent by certified mail. The applicant may appeal therefrom as provided for in Section 31-2-14. (2-18-70; 1961 Code, § 18-7; 16-76-31; 43-81-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-9. Contents of license.¹⁰

Such license shall contain the following information: a license number, name of the applicant, photograph and thumbprint of applicant, if an individual; the kind of goods to be sold, services performed, or kind of canvassing to be conducted; name of employer, if any; date of issuance and expiration; signature of the Director; and such other information as the Director deems appropriate. (2-18-70; 1961 Code, § 18-8; 16-76-31; 43-81-31; 22-84-31.)

Section 31-2-10. Duration of license; non-transferable.¹¹

Except for temporary licenses issued pursuant to Section 31-2-8, all licenses issued pursuant to this Article shall be valid for a period of one (1) year from the date of issuance. No license shall be transferable. A license shall become void at such time as a licensee hereunder changes (i) the licensee's employer, if not self-employed, (ii) the kinds of goods to be sold, (iii) the type of services to be performed, or (iv) the kind of canvassing to be conducted. (2-18-70; 1961 Code, § 18-9; 16-76-31; 10-93-31, § 1.)

⁸ Note--Formerly, § 31-2-8.

⁹ Note--Formerly, § 31-2-9.

¹⁰ Note--Formerly, § 31-2-10.

¹¹ Note--Formerly, § 31-2-11.

Section 31-2-11. Suspension of license.¹²

Any license issued under this Article may be suspended by the Director, without notice or hearing, for a period of up to ten (10) days for any of the reasons for which a license could be denied under Section 31-2-9 or for any violation of any provision of this Chapter. Such suspension may be extended beyond the initial period until the charge(s) upon which it is grounded have been disposed of; provided, that the licensee shall be so notified in writing within the initial ten-day period of suspension. (2-18-70; 1961 Code, § 18-12; 16-76-31; 43-81-31; 22-84-31; 10-93-31, § 1.)

Section 31-2-12. Revocation of license.¹³

- (a) Any license issued under the provisions of this Article may be revoked by the Director after first giving seven (7) days' written notice to the licensee stating the reasons therefor, which may include, but shall not be limited to, the following:
- (1) Any of the reasons for which a license can be denied under Section 31-2-8.
 - (2) Cancellation or termination of the bond required in Section 31-2-6.
 - (3) Conduct of the business or activity for which the license was issued in an unlawful manner or in such manner as to constitute a breach of the peace or a danger to the health, safety, and welfare of the public, including but not limited to, the following:
 - (A) Use of a threat, expressed or implied, or of coercion as inducement to make a sale; or
 - (B) Refusal to discontinue efforts to make a sale when specifically requested to do so by the prospective purchaser.
 - (4) Violating any provision of this Chapter.
 - (5) Violating any provision of the Virginia Home Solicitation Sales Act (Code of Virginia, Chapter 2.1 of Title 59.1), the Virginia Consumer Protection Act (Code of Virginia, Chapter 17 of Title 59.1) or any other applicable consumer protection measures which are pertinent to the conduct of the licensed business activity.
- (b) Notice of revocation shall be sent by certified mail to the licensee at the business address appearing on the license application; or if there be none, to the residence address appearing thereon. The licensee may file an appeal therefrom in accordance with Section 31-2-14.
- (c) The Director shall keep a permanent record of all licenses revoked. (2-18-70; 1961 Code, § 18-11; 16-76-31; 43-81-31; 22-84-31.)

Section 31-2-13. Consumer Protection Commission duties and hearings.¹⁴

It is hereby established that the Commission shall, in addition to the performance of such other duties and responsibilities as may be imposed upon it, consider and act upon appeals from action of the Director, in the manner more specifically set forth hereinafter. (2-18-70; 1961 Code, § 18-13; 16-76-31; 13-77-31; 22-84-31.)

Section 31-2-14. Appeals.¹⁵

- (a) From Decisions of the Director.
- (1) Right of appeal. If the Director denies, suspends or revokes any license, any person affected thereby may appeal such decision to the Commission.
 - (2) Procedure. The appellant or his attorney may file in the office of the Director a written notice of appeal signed by the appellant or his attorney requesting a hearing and setting forth a brief statement of the reasons therefor. Such appeal shall be filed within thirty (30) days of receipt of the notice of denial, suspension or revocation.

¹² Note--Formerly, § 31-2-12.

¹³ Note--Formerly, § 31-2-13.

¹⁴ Note--Formerly, § 31-2-14.

¹⁵ Note--Formerly, § 31-2-15.

- (A) Upon receipt of such notice of appeal, the Director shall forthwith notify the Commission. The Commission shall set a time and place for such hearing which shall be scheduled within forty-five (45) days of receipt of the request therefor and shall mail written notice thereof to the appellant or his attorney no less than seven (7) days prior thereto.
 - (B) Hearings of the Commission pursuant to this Chapter shall be open to the public and shall be, insofar as is reasonably practicable, informal and free of technical rules of law or evidence. Appellants shall be entitled to be heard in person and/or by counsel, and shall be entitled to provide for the transcribing of the proceedings in any manner which will not impede the orderly conduct of a hearing of the proceedings. Appellants may also call such witnesses as are deemed necessary.
 - (i) The Commission shall hear the matter de novo, and shall consider the evidence presented to it, including any statements offered by interested parties.
 - (ii) The Commission may establish such additional rules of procedure for the conduct of its hearings as may be consistent with the provisions of this Chapter.
 - (C) Decisions of the Commission shall be reduced to writing, and rendered within thirty (30) days of concluding the hearing. A copy thereof shall be furnished to appellant or his attorney.
 - (D) If the Commission affirms the decision of the Director to deny, suspend or revoke a license, the denial, suspension or revocation shall be effective from the date of the Commission's order, except as hereinafter provided in this Section.
 - (E) If the Commission reverses the decision of the Director, the Commission shall direct the Director to issue or restore the license in accordance with its orders.
- (3) Effect of appeal. The appeal of the decision to revoke a license under Section 31-2-12 shall stay the effective date of the revocation.
- (b) *From Decisions of the Commission.* The decisions of the Commission shall in all cases be final, except that any appellant may, within thirty (30) days after the rendering of such decision pursue any other legal remedy available to him under Federal or State Law. (2-18-70; 1961 Code, § 18-14; 16-76-31; 13-77-31; 43-81-31; 22-84-31.)

Section 31-2-15. Filing of application after denial or revocation.¹⁶

No application for a license under the provisions of this Chapter shall be accepted from any person whose application for a license has been denied or whose license has been revoked for a period one (1) year from the date of such denial or revocation. (2-18-70; 1961 Code, § 18-15; 16-76-31; 13-77-31; 22-84-31.)

¹⁶ Note--Formerly, § 31-2-16.